



OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE

WASHINGTON, D.C. 20301

COMPTROLLER
(Administration)

June 27, 1984

ADMINISTRATIVE INSTRUCTION NO. 28

SUBJECT : Overtime, Administrative Workweek, and Prescribed Hours of Duty for Civilian Employees

- References:
- (a) Administrative Instruction No. 28 (Revised) , "Approval and Payment of Overtime for Civilian Employees," November 14, 1977 (hereby canceled)
 - (b) Public Law 93-259, "Fair Labor Standards Act," April 8, 1974
 - (c) Federal Personnel Manual (FPM), Chapters 550, 551, and related 551 FPM Letters, and Chapter 610; FPM Supplement 990-2, Books 550 and 610 (5 CFR Parts 550, 551, and 610)
 - (d) Title 5, United States Code, Sections 5541 to 5550a.
 - (e) Air Force Manual (AFM) 177-372, Volume II, "Time and Attendance Reporting," February 1, 1983
 - (f) Deputy Assistant Secretary of Defense (Administration) Policy Memorandum, "Payments for Overtime and the Use of Compensatory Time," November 4, 1978 (hereby canceled)
 - (g) Deputy Secretary of Defense Policy Memorandum, "Civilian Overtime," December 18, 1978
 - (h) DoD Directive 5110.4, "Washington Headquarters Services," October 1, 1977

A. REISSUANCE AND PURPOSE

This Administrative Instruction:

1. Reissues reference (a).
2. Updates policy, procedures, and responsibilities for approval and payment of overtime for civilian employees under reference (b), 5 CFR Parts 550 and 551 (reference (c)), and reference (d)).
3. Establishes the administrative workweek and prescribed hours of duty for civilian employees in accordance with 5 CFR Part 610 (reference (c)).
4. Establishes policy and procedures for changes in the administrative workweek or prescribed hours of duty for civilian employees.
5. Revises policy and procedures for documenting overtime hours to time and attendance cards for civilian employees under reference (e).
6. Cancels reference (f).

B. APPLICABILITY AND SCOPE

1. This Instruction applies to all full-time permanent and temporary civilian employees and all intermittent and part-time employees (except consultants and experts) who are required to work beyond 8 hours on a given workday or beyond 40 hours in a given workweek and who are assigned to the Office of the Secretary of Defense (OSD), DoD field activities, the Organization of the Joint Chiefs of Staff (OJCS), and other activities serviced by Washington Headquarters Services (WHS) (hereafter referred to as "OSD Components").

2. Members of the Senior Executive Service (SES) are not covered under this Instruction for payment of overtime work or compensatory time instead of paid overtime. SES members are included in the provision of compensatory time authorized for religious observances.

C. DEFINITION

OSD Component Head. Includes the Chairman, JCS; the Director, Joint Staff; the Under Secretaries of Defense; the Assistant Secretaries of Defense; the General Counsel, Department of Defense; the Inspector General, Department of Defense; the Executive Secretary, Department of Defense; the Assistant to the Secretary of Defense (Atomic Energy); the Assistant to the Secretary of Defense (Intelligence Oversight); the Director, Operational Test and Evaluation; the Director, Program Analysis and Evaluation; the Director, Net Assessment; the Director, Strategic Defense Initiative; the Defense Advisor, U.S. Mission to NATO; the Assistant to the Secretary and Deputy Secretary of Defense; the Director, Small and Disadvantaged Business Utilization; the Director, Defense Advanced Research Projects Agency; the Director, Defense Legal Services Agency; the Director, Defense Security Assistance Agency; the Chief Judge, U.S. Court of Military Appeals; the Directors of DoD field activities; and the Commander Armed Forces Radio and Television Service Programing Center.

D. POLICY

1. Overtime work shall be approved only when additional work beyond the regularly scheduled administrative workweek is absolutely necessary to meet scheduled deadlines or when unusual work requirements exist that cannot be foreseen and planned for within normal duty hours (Deputy Secretary of Defense Memorandum, reference (g)).

2. OSD Components shall establish policy and appropriate internal procedures to control and monitor overtime work, and ensure that all approved overtime work is in compliance with existing procedures and standards (reference (g)).

3. Compensatory time instead of paid overtime shall be maximized to the fullest extent possible (reference (g)).

4. The regularly scheduled administrative workweek for full-time personnel is a 40-hour basic workweek consisting of 5, 8-hour, consecutive days, Monday through Friday. The prescribed hours of duty are 8:30 a.m. to 5:00 p.m., including a 30-minute lunch break. (The lunch break normally is taken between 11:00 a.m. and 2:00 p.m. at the discretion of the supervisor). The lunch

break is the only authorized deviation in the official workday unless otherwise authorized by a negotiated agreement.

E. PROCEDURES

1. Requesting and Authorizing Overtime

a. A written request for authorization of overtime work shall be submitted to and approved by the OSD Component head or designated authorizing official at the DASD or equivalent level before overtime work is performed. When circumstances preclude a written advance request, the request may be oral. If approved, the authorized overtime work shall be documented in writing and signed by the designated authorizing official.

b. A separate request shall be prepared for each work situation requiring authorization of overtime work. No request shall extend beyond the close of a single pay period. When a particular work situation extends beyond the close of a single pay period, separate requests shall be prepared for each pay period involved.

c. Each request shall:

(1) Describe the work to be performed on overtime.

(2) Explain why such work cannot (or could not) be performed during regular working hours.

(3) Show the names of the employees required to work overtime.

(4) Include an estimate (or statement) of the total number of overtime hours required and the dates on which it is to be (or was) performed.

(5) Describe why compensatory time cannot be used instead of paid overtime.

2. Supervisors shall:

a. Under subsection E.I., above, submit a written request to the approving official for authority to order overtime work before overtime actually is worked.

b. Request volunteers from the working group under his or her supervision.

c. Advise exempt employees whether overtime pay or compensatory time was approved before they actually work.

d. Consult the overtime list maintained in the Directorate for Personnel and Security (DP&S), WHS.

e. When too few employees volunteer, or when the overtime list is not productive, order overtime to be worked by employees whose normal duty assignments relate to the work to be completed.

f. Approve or disapprove requests to take compensatory time off and, when disapproved, furnish an explanatory statement to the employee, either on the Standard Form (SF) 71 or by separate memorandum.

3. Approving Officials shall:

a. Approve or disapprove each request for overtime authorization whether oral or written.

b. Forward each approved written request for overtime authorization through the requesting official to the appropriate time-and-attendance clerk.

4. OSD Component Time-and-Attendance Clerks shall:

a. Post overtime and compensatory hours to the employee's time and attendance cards (AF Form 1278) and retain authorizations and certifications of overtime hours in accordance with AFM 177-372 (reference (e)).

b. Submit certified AF Forms 1278 to the Civilian Payroll Office or the Personnel Data Office, DP&S, WHS, before the close of the pay period in which the overtime was performed.

c. Issue certifications of overtime worked by employees borrowed from other OSD Components, stating the name of the employee, date on which the overtime was performed, and the number of hours worked.

5. The Personnel Data Office, DP&S, WHS, shall forward certified AF Forms 1278 received to the Air Force Civilian Payroll Office in accordance with reference (e).

6. Requesting and Authorizing Changes in Employees' Administrative Workweek or Official Hours of Duty

a. A written request for authorization for changes in an employee's administrative workweek or official hours of duty shall be submitted in advance of granting any change.

b. Requests for changes in an employee's administrative workweek or official hours of duty shall be submitted to the Director, WHS (reference (h)), for approval. Such requests also shall have the concurrence of the employee's OSD Component head.

c. Supervisors shall prepare a written request that:

(1) Describes the work requirements that warrant the need for the change in the administrative workweek or official hours of duty.

(2) Explain how the change will improve efficiency or productivity, reduce overtime requirements, or provide some other benefit that may accrue to the office.

(3) Indicate the name of the employee for whom the change is requested.

(4) Submit the request to the Director, WHS, through the OSD Component head concerned.

F. RESPONSIBILITIES

1. OSD Component Heads shall:

a. Ensure that overtime worked is covered by funds targeted for their Components.

b. Establish internal procedures to control and monitor the use of overtime work, overtime pay, and compensatory time instead of paid overtime.

c. Approve or disapprove requests for overtime work or designate an official to perform this function.

d. Establish a policy relative to the use of compensatory time instead of paid overtime.

e. Reduce the amount of overtime work to that absolutely necessary.

f. Concur in or designate an official to concur in requests for changes in employees' administrative workweek or prescribed hours of duty before submitting such requests to the Director, WHS, for approval.

g. Ensure that records of approved overtime work, approved changes to an employee's administrative workweek, or prescribed hours of duty are maintained.

2. Officials Authorized to Approve Overtime shall:

a. Determine that overtime work is necessary and essential to meet schedules, deadlines, or unforeseen and unplanned program requirements.

b. Ensure that the importance of completing work schedules outweighs the added expense of paid overtime.

c. Ensure that the additional work requirement cannot be satisfied by other employees available during regular working hours.

d. Approve travel outside of an employee's regularly scheduled workweek only when essential.

e. Consider the establishment of staggered working hours for employees when (1) it is necessary to keep an office open before or after the regular duty hours, or (2) the workload cannot be accomplished during the regular duty hours.

f. Analyze frequent or repetitive overtime work with a view toward redistributing the work or reducing the work program requirements.

g. Approve and order overtime work **only** when the work situation justifies it.

h. **Issue** a certification of overtime work performed for his or her Component by an employee of another OSD Component.

i. Determine if the grant of compensatory time off for religious observances interferes significantly with the efficient accomplishment of the functions of the office on a case-by-case basis.

3. Supervisors shall:

a. Reschedule work requirements, whenever possible, to avoid overtime work.

b. Contact the **DP&S**, WHS, to arrange for the loan of additional clerical personnel to meet unavoidable peak workloads before requesting overtime work.

c. Determine the **number** of additional hours required to meet work schedules or deadlines when overtime work is absolutely necessary.

d. Request authorization in advance for overtime work.

e. Approve or disapprove a request to take compensatory time off and, if disapproved, furnish an explanatory statement to the employee.

f. Grant compensatory time off to an employee who requests time off for religious observances and afford the employee the opportunity to work compensatory overtime. However, if no productive overtime is available to be worked by the employee at the time of initial request, alternative time **shall** be arranged for the performance of compensatory overtime work.

g. Request advance authorization for changes in employees' administrative workweek or official hours of duty through the OSD Component head.

h. Retain authorizations and certifications of overtime for a period of 3 years (AFM 177-372, reference (e)).

4. The Director, Washington Headquarters Services, shall:

a. Approve regularly scheduled tours of duty beyond 40 hours a week.

b. Approve changes in employees' administrative workweek or official hours of work.

5. The Director of Personnel and Security, WHS, shall:

a. Provide advice and guidance regarding overtime work, overtime pay, and compensatory time instead of paid overtime.

b. Provide advice and guidance regarding changes to the administrative workweek or official hours of duty.

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G. EFFECTIVE DATE

This Instruction is effective immediately.



D. O. Cooke
Deputy Assistant Secretary of Defense

Enclosures - 2

1. Guidance Governing Entitlement for Overtime Pay under the FLSA and Title 5, U.S. Code
2. Guidance Governing Requesting, Approving, and Ordering Overtime Work and Changes in the Administrative Workweek and Prescribed Hours of Duty

GUIDANCE GOVERNING ENTITLEMENT FOR OVERTIME?. PAY UNDER THE FLSA
AND TITLE 5 U.S. CODE

1. The FLSA (reference (b)) exempts certain employees from the overtime provisions of the Act, including those in certain executive, administrative, and professional positions and all employees serving in foreign areas. However, exempt employees may be entitled to overtime pay under 5 U.S.C. 5542 (reference (d)).
2. The determination of exempt or nonexempt status under the FLSA is a position classification process. Every position has been reviewed and a determination has been made as to each employee's status under the Act.
3. Before implementation of the FLSA, eligibility for overtime pay was governed by 5 U.S.C. 5542. The FLSA does not override 5 U.S.C., but shall be considered a separate means by which overtime pay is computed. When a nonexempt employee is entitled to overtime pay under both the FLSA and 5 U.S.C., the employee is entitled to the statute providing the greater overtime pay benefit. Employees exempt under the FLSA are always paid for overtime work under the auspices of 5 U.S.C. Under the FLSA, overtime pay entitlement does not begin to accrue until the employee has completed 40 hours of actual work in a week. For example, an employee who has any paid time off during the week (such as holiday, leave, or excused absence) will not accrue any entitlement to overtime pay under the FLSA until additional actual work in the week exceeds the paid hours of nonwork, and exceeds 40 hours.
4. In determining the total number of hours worked for overtime pay purposes under the FLSA, the hours of work performed at night or on a holiday shall be included.
5. Overtime work performed by an employee shall be credited at a minimum of 2 hours for overtime pay purposes when he or she is:
 - a. Called back to work on a day that does not fall within his or her scheduled workweek.
 - b. Required to return to his or her place of employment.
6. Overtime pay shall be computed on the following bases:
 - a. Employees exempt under the FLSA whose rate of compensation does not exceed the rate of GS-10, step 1, are entitled to the hourly rate of 1½ times the hourly rate of his or her basic compensation.
 - b. Exempt employees whose rate of compensation exceeds the rate of GS-10, step 1, are entitled to the hourly overtime rate of basic compensation of GS-10, step 1.
 - c. Nonexempt employees who qualify for overtime pay under the FLSA may receive actual time-and-a-half pay without regard to the maximum salary ceiling control imposed for exempt employees.

d. **An** employee is compensated for overtime work performed on a Sunday at the same rate as for overtime on any other day.

e. Overtime work performed on a holiday (beyond the regular 8-hour tour of duty) is computed as follows:

(1) An exempt employee is compensated at the same rate for overtime work as on any other day.

(2) A nonexempt employee is compensated at the actual time-and-a-half rate assuming that he or she was in a work status for the entire 40-hour workweek. If the employee was not in a work status the entire week, overtime payment shall be made under 5 U.S.C. 5542 (reference (d)).

7. Overtime compensation **or** compensatory time instead of paid overtime may be granted to **an** exempt employee only to the extent that it does not cause the aggregate compensation for a biweekly pay period to exceed the maximum payable rate of basic compensation provided for **GS-15**.

8. Work performed on a holiday occurring within the established administrative workweek is not "overtime" within the meaning of the statutes. Consequently, holiday pay is categorized as additional pay or premium pay. Compensation for duty performed on a legal holiday is an amount equal to the basic regular hourly rate times the number of hours worked for the first 8 hours. Regularly scheduled employees receive additional pay for work performed on a holiday; unscheduled employees (those who have no established administrative workweek) receive their regular rates of pay.

9. When the correct amount of overtime compensation earned during a regular pay period cannot be determined **until** sometime after the regular pay period ends and the overtime compensation cannot be included in an employee's regular pay check for that pay period, the overtime compensation earned shall be computed as soon as practicable and paid on a subsequent regular pay day thereafter.

10. Overtime work performed under the FLSA or 5 U.S.C. by employees engaged in the performance of their normal duties and responsibilities shall be credited as follows:

a. A $\frac{1}{4}$ of an hour shall be the largest fraction of an hour used for crediting overtime work (5 CFR Parts 550 and 551, reference (c)).

b. For overtime work performed in other than the full fraction, odd minutes shall be rounded up or rounded down to the nearest **full** fraction of an hour when crediting overtime work (reference (c)).

GUIDANCE GOVERNING REQUESTING , APPROVING, AND ORDERING
OVERTIME WORK AND CHANGES IN THE ADMINISTRATIVE
WORKWEEK AND PRESCRIBED HOURS OF DUTY

1. Overtime work shall be approved in writing by the OSD Component head or by a designated official at the DASD or equivalent level. The authorization request and the approval shall be in advance of performing the work, except when the exigency of the situation prevents written or oral prior approval. In exigency situations, requests for written approval shall be submitted by the supervisor at the first opportunity to the designated authorizing official. The actual time worked shall be monitored and approved by the supervisor or a designee before recording on the employee's time card. However, an employee who is nonexempt under the FLSA (reference (b)), may be paid for overtime work that an employer "suffers" or "permits" to be performed.
2. Exempt employees who perform authorized overtime work shall be paid for the overtime work performed, or be granted compensatory time, to the extent that the aggregate compensation for any pay period does not exceed the maximum rate payable to a GS-15. This provision effectively precludes the payment of premium pay to employees in Executive Schedule positions. Members of the SES are precluded from payment for overtime work or crediting of compensatory time (5 CFR Part 550, reference (c)).
3. Employees shall be given a minimum of 24-hours advance notice of planned overtime to be worked. Exceptions shall be made only in unforeseen circumstances.
4. Overtime shall not be ordered or approved for:
 - a. Keeping an office open and available to receive official business and official communications before or after the regular work hours or on weekends, unless such duty is required by law or in writing by the Secretary of Defense, Deputy Secretary of Defense, or an OSD Component head.
 - b. Employees who arrive voluntarily before or remain after official work hours.
 - c. Employees who generate the need for overtime work by unscheduled or unauthorized absences during regular working hours.
5. Before approving overtime, each authorizing official shall ensure that employees are devoting normal working hours to accomplish their duties. Supervisors may not authorize or approve leave if it results in overtime to accomplish regularly scheduled work. Generally, planned overtime work may not be authorized when annual leave or leave without pay has been approved in the same week.
6. Employees shall be encouraged to take compensatory time instead of paid overtime. Compensatory time may be granted instead of payment for overtime work (hour for hour) under the following circumstances:
 - a. Exempt employees whose basic pay is at or below the maximum scheduled rate of compensation provided for a GS-10 may elect overtime pay or compensatory time off instead of overtime pay. Once the employee makes the choice it is irrevocable for that particular instance.

b. Exempt employees whose basic pay is above the maximum scheduled rate of basic compensation provided for a GS-10 may be paid for overtime work or granted compensatory time off for the overtime worked. This shall be at the discretion of the OSD Component head or the designated authorizing official.

c. Nonexempt employees who qualify for overtime payment under the FLSA (reference (b)) (**those** in a work **status** for the **40-hour** week), may not elect compensatory time off and must be paid for the overtime work performed.

d. Nonexempt employees who do not qualify for overtime payment under the FLSA (reference (b)) for a given workweek, may elect compensatory time off instead of overtime payment. This can be accomplished by the employee attaching a memorandum to the time card stating he or she is waiving rights to overtime pay and electing that compensatory-time be granted. However, **over-**time compensation may be-paid if the employee **changes** his or her mind before taking compensatory time off.

7. Compensatory time shall be liquidated:

- a. As soon as possible.
- b. Before annual leave is approved.
- c. For the time equal to the overtime work performed.
- d. By the employee submitting an approved SF 71, "Application for Leave."
- e. Within 4 pay periods (8 weeks) after the overtime work was performed. If it is not taken within that time limit and if the supervisor has not disapproved the request for compensatory time off, the exempt employee loses the right both to compensatory time off and to overtime pay unless the failure is due to an exigency of the service beyond the employee's control. A nonexempt employee will not lose the right, but instead must be paid if he or she does not use it within 8 weeks.

8. Employees will not be expected to work overtime if it impairs their health or presents an extreme hardship.

9. Work schedules may be adjusted for religious observances, as follows:

a. Employees may elect to request in advance to work compensatory overtime for the purpose of taking time off without charge to leave when personal religious beliefs require that the employee abstain from work during certain periods of the workday or workweek. An employee who has approval to work compensatory overtime for this purpose shall be granted (instead of overtime pay) an equal amount of compensatory time off (hour for hour) from the scheduled tour of duty.

b. Employees shall be afforded the opportunity to work compensatory overtime when the employee's personal religious beliefs require that the employee abstain from work during certain periods of the workday or workweek, if the employee's absence does not interfere significantly with the efficient accomplishment of the functions of the office.

c. Compensatory overtime for religious observance purposes may be granted before or after the granting of compensatory time off.

d. Supervisors shall offer opportunities to repay a grant of advanced **compensatory** time off at a mutually acceptable time within 8 weeks (4 pay periods) following the date of the time off. If the employee does not work the **compensatory** time offered to which the employee had agreed, it may be charged to annual leave or to leave without pay.

e. For purposes of compensatory overtime work performed by an employee for religious observances, the following do not apply:

(1) The premium pay limitations regarding employees whose rates of basic pay equal or exceed that for GS-15 or SES members.

(2) The premium pay provisions for overtime work performed by nonexempt employees under the FLSA (reference (b)).

10. Each OSD Component shall monitor, analyze, and take appropriate follow-up action on overtime and compensatory time earned in order to minimize the performance of overtime work. Based on effectiveness in meeting schedules and **when** resulting in overall savings, consideration shall be given to:

a. Use of part-time and intermittent employees and full-time employees in temporary positions, provided current ceiling limitations are not exceeded.

b. Contract work, if not in conflict with generally accepted practices of government employment.

c. Maximum use of shift-work.

11. Changes in an employee's regularly scheduled administrative workweek or prescribed hours of duty shall be approved only when unusual work requirements of the office warrant a variance, the efficiency or productivity of the office may improve, overtime requirements may be reduced, or other benefit may be achieved by the office.

12. Approval for a change in an employee's regularly scheduled administrative workweek or hours of duty shall be obtained in advance of any change. An authorized change in an employee's administrative workweek or hours of duty shall remain in effect only as long as the employee remains in that office.